

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

JASON KESSLER, et al.,

Plaintiffs,

V.

CITY OF CHARLOTTESVILLE,

Defendant.

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Case No. 3:17-cv-00056-GEC

AFFIDAVIT OF FIRE CHIEF ANDREW BAXTER

STATE OF VIRGINIA

CITY OF CHARLOTTESVILLE, to wit:

This day in the City of Charlottesville, Virginia, Andrew Baxter appeared before me, Barbara K.

Ronan, a Notary Public in and for the City and State aforesaid, and made oath as follows:

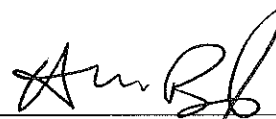
1. I am the Fire Chief for the City of Charlottesville and I have served in that capacity for 2 years. I have also served as Assistant Fire Chief with the Henrico County Division of Fire and have a total of 27 years of experience in fire and public safety.
2. Emancipation Park is not a safe location to hold an event such as the proposed August 12, 2017 "Unite the Right" Rally (hereinafter "Rally"), and allowing the Rally to go forward at Emancipation Park will entail potentially catastrophic risk to Rally participants, the general public, law enforcement, fire and emergency medical personnel, for the following reasons:
 - a. Emancipation Park contains 1.04 acres; approximately one square block in size and shape.
 - b. The City estimates that more than 1,000 people may participate in the Rally.

- c. Emancipation Park does not provide adequate space to safely accommodate a Rally with more than 1,000 participants in the Park simultaneously for the duration of a 5 hour event.
- d. Emancipation Park is located in a population-dense area of the City, and is surrounded by a large number of buildings, in all directions.
- e. Holding the Rally in Emancipation Park will require the closure of several public roads to accommodate the large number of participants. All of these roads are vital fire department access roads.
- f. The above-referenced road closures will limit access to the areas surrounding Emancipation Park.
- g. Such closures will cause potentially severe delays in response times to both event and non-event related emergency incidents and will substantially hinder the ability of fire and emergency medical personnel to provide emergency services to both Rally participants and to the general public.
- h. Transportation of injured persons to a hospital from Emancipation Park and surrounding areas will also be slowed.
- i. The risks of operating in the confined area of Emancipation Park has the potential to rise to unacceptable levels under certain conditions, such that it would be impossible to provide a safe work environment for fire and emergency medical personnel.
- j. For this reason, fire and emergency medical personnel may be unable to provide emergency services in Emancipation Park or the surrounding areas under such conditions.
- k. The historic downtown has predominantly 19th Century legacy construction without many of the modern building features employed to prevent fire and protect lives in the

event of fire; as a result, small fires that could potentially start may spread quickly absent a rapid fire department response.

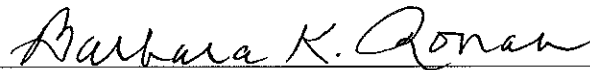
1. The crowding of a large number of people in the limited space of Emancipation Park, in close proximity to the Downtown Mall and other historic buildings, creates an increased risk of a significant fire occurring, and may make the harm caused by such a fire more severe.
3. McIntire Park is a safer venue for the Rally, and will substantially reduce the risks to Rally participants, the general public, law enforcement, and fire and emergency medical personnel associated with the Rally, for the following reasons:
 - a. Fire and emergency medical personnel will be able to rely on the aforementioned experience when confronted with large crowds of over 1,000 participants.
 - b. McIntire Park and the surrounding area is the least populated and has the lowest population density of any area within City limits.
 - c. Large crowds are easier to manage with acres of open space available to move bystanders and responders away from harm or injury.
 - d. McIntire Park is a distinct, open space in an area of lower density.
 - e. There are few structures on the McIntire Park property that are accessible to the public and these will be closed on the day of the Rally event.
 - f. McIntire Park provides on-site parking for those attending large-scale events, and provides accessibility to off-site parking at Charlottesville High School.
 - g. The physical layout of McIntire Park allows for a “defined operational area,” allowing fire and emergency personnel to operate safely and efficiently direct their efforts to the area of greatest need.

- h. McIntire Park provides clearly defined ingress and egress routes for emergency vehicles, including efficient access to primary roads within the City and, if necessary, designated evacuation routes.
 - i. The holding of events at McIntire Park does not negatively impact the ability of emergency vehicles to respond to emergencies in nearby neighborhoods and does not pose a challenge for transportation within the City as a whole.
4. For the above reasons, in my capacity as the Fire Chief of the City of Charlottesville, I conclude that holding the Rally at Emancipation Park would create an unreasonable and unjustifiable risk to demonstrators, the general public, law enforcement, fire and emergency medical personnel, and property in and around the Rally, and that holding the event at McIntire Park would be substantially safer for all parties.
5. I have provided this information and these recommendations to the Director of Emergency Management for the City of Charlottesville.



Andrew Baxter, Fire Chief

Subscribed and sworn to before me this 10th day of August, 2017. In testimony whereof, I have hereunto set my hand the day, month and year aforesaid.



Notary Public

Registration No.: 188151

My commission expires: 4/30/2021

